

REMARKS

Reconsideration and withdrawal of the rejections of the instant claims are requested in view of the foregoing amendment and the following remarks. Claims 1, 18, 22, 26-31 and 33-35 and 49 are amended herein, no new matter is added.

The office action objects to certain informalities that appear in claims 22 and 26-31, 33-34, and claim 49. These informalities including correcting the preamble and the claim of dependency in claim 49 have been addressed by these amendments. Withdrawal of the objection is requested.

Next, the office action rejects claims 1, 5, 9-14, 16-18, 22, 26-31, 33-40, 42-43, 45-46, and 49-50 under 35 U.S.C. § 112, second paragraph as indefinite. In response claims 1, 18, and 35 are amended herein to clarify first that there are three separate destination addresses, one for the Journal, one for the Production Storage Element, and one for the Snapshot. It is believed that these amendments should address the issues raised by the office action for these addresses. As to the term “new,” any ambiguity of this term is eliminated by reference to the specification such that one of skill in the art would understand that this references a data chunk which had not previously been written to the Journal. Accordingly, it is submitted that the claims meet the requirements of § 112, second paragraph. Withdrawal of the rejection is requested.

On the merits, claims 1, 5, 9-14, 16-18, 22, 26-31, 33-40, 42, 45-46, and 49-50 are rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Application Publication No. 2005/0172092 to Lam et al. in view of Applicant’s Admitted Prior Art (AAPA) incorporating U.S. Patent No. 6,434,681 to Armangau and in further view of U.S. Patent No. 6,708,227 to Cabrera. Claim 43 is rejected under 35 U.S.C. § 103(a) as unpatentable over the above cited references in further view of U.S. Published Patent Application No. 2003/01311182 to Kumar.

In response to these rejections, submitted herewith is a Declaration under 37 C.F.R. § 131 by Gadi Erlich, General Manager of Sanrad, Ltd., the assignee of the present invention, to swear behind the Lam, et al. reference. The declaration details a conception date of the present invention of at least as early as May 9, 2003, which is prior to the filing date of U.S. Patent Application Publication No. 2005/0172092 to Lam et al., on February 4, 2004. Accordingly, it is respectfully requested that the rejection based on Lam be withdrawn.

Conclusion

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

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